



GENERAL SESSION

HAZARDOUS WASTE MANAGEMENT COMMISSION (HWMC)

April 18, 2005

9:00 A.M.

1738 East Elm Street

Bennett Springs/Roaring River Conference Room

Jefferson City, Missouri 65102

COMMISSIONERS PRESENT

Ben Kessler, Chairman
Patrick Gleason, Vice-Chairman
Norella Huggins
Robert Saunders
Tim Warren
Susan Williamson
Rusty Brown (via phone)

CALL TO ORDER

Ben Kessler, HWMC Chairman called the General Session to order at 9:00 A.M.

EXECUTIVE SESSION

Motion to go into closed session was made by Commissioner Huggins and seconded by Commissioner Warren. The roll call vote was as follows:

Ben Kessler, Chairman	Yes
Patrick Gleason, Vice-Chairman	Yes
Norella Huggins	Yes
Robert Saunders	Yes
Tim Warren	Yes
Susan Williamson	Yes
Rusty Brown (via phone)	Yes

Motion carried.

GENERAL SESSION

Motion was made by Commissioner Patrick Gleason and seconded by Commissioner Williamson to return to General Session. The result of the vote is as follows:

Ben Kessler, Chairman	Yes
Patrick Gleason, Vice-Chairman	Yes
Norella Huggins	Yes
Robert Saunders	Yes
Tim Warren	Yes
Susan Williamson	Yes
Rusty Brown (via phone)	Yes

Motion carried.

APPROVAL OF MINUTES

Motion to approve the February 10, 2005, General Session minutes was made by Commissioner Huggins and seconded by Commissioner Saunders.

Motion carried.

CHAIRMAN AND VICE-CHAIRMAN ELECTION

Motion was made by Chairman Kessler and seconded by Commissioner Warren to nominate Commissioner Gleason as the 2005 Chairman of the Hazardous Waste Management Commission.

Motion carried.

Motion was made by Commissioner Huggins and seconded by Commissioner Saunders to nominate Commissioner Warren as Vice-Chairman.

Motion carried.

EXPERT MANAGEMENT INCORPORATION APPEAL

Rob Morrison, Permits Section, requested that the Commission assign a hearing officer to the Expert Management Incorporation Appeal. Mr. Morrison presented information and answered questions regarding the appeal.

Motion to appoint a hearing officer to the Expert Management Incorporation Appeal was made by Commissioner Huggins and seconded by Commissioner Kessler.

Motion carried..

Shelley Woods, Attorney General's Office, (AGO) informed the Commission that the hearing officer would address any further questions arising. After a brief discussion, Chairman Gleason appointed James Martin as the hearing officer.

UPDATE AGO'S ACTIONS CONCERNING FINANCIAL RESPONSIBILITY OF UNDERGROUND STORAGE TANKS

Dan Massey, AGO, presented information and answered questions regarding the AGO's actions concerning Financial Responsibility (FR), of underground storage tanks. Mr. Massey explained the purpose and procedures of FR, noting the importance of regulated proof of insurance requirements. He pointed out the availability and affordability to the public of the state subsidized Petroleum Storage Tank Insurance Fund (PSTIF), as an alternative to more costly private underground storage tank insurance coverage. Mr. Massey informed the Commission that in a joint effort, DNR staff and the AGO authorized a letter of notification to be sent by the AGO to underground storage tank owners, who appear to have no underground storage tank insurance ie.(FR). He said the letter also allowed a 60-day period for the owner to show proof of FR with an underground storage tank insurance policy. Mr. Massey told the Commission that out of the approximate 153 letters sent:

- 40 or 50 recipients of those letters had responded by obtaining insurance,
- half of the remaining were planning on purchasing insurance or in the process of doing so
- and approximately 50 to 80 appeared not to respond at all

Mr. Massey told the Commission that penalty letters with settlement agreements would be sent to those who did not respond and thank you letters would be sent to those who had complied in obtaining required insurance. He mentioned the possibility of a bulk referral of non-compliant stations to be brought before the Commission and also the possibility of barring non-compliant stations from receiving and dispensing gas petroleum deliveries. Mr. Massey pointed out the fundamental unfairness and the competitive advantage of allowing non-compliant stations to continue operating along side stations who do comply.

Commissioner Brown asked Mr. Massey if the letters sent were certified and if confirmation of certification could be presented to the Commission. Mr. Massey assured Commissioner Brown that certified letters were sent and agreed to present confirmation of their certification at the next Commission meeting. Mr. Massey explained the statewide diversity of size and location of the stations, stating that many are older stations with lower identification numbers indicating a history of non-compliance over several years. Mr. Massey also informed the Commission that all operating stations had to meet the minimum criteria of fiberglass lined tanks.

Carol Eighmey, PSTIF, Executive Director, addressed the Commission in support of the efforts made and time spent by the state to bring these stations into compliance. Ms. Eighmey explained the process and answered questions regarding application for insurance through the PSTIF. She told the Commission that PSTIF insures 2750 underground storage tanks and approximately 500 above ground tanks with the exception of a known 500 or so underground tanks covered by private insurance companies. Ms. Eighmey reminded the Commission that it isn't just gas stations that are insured ,but rather where ever there is a tank in need of coverage. When asked by the Commission to explain how compliance is verified, Ms. Eighmey responded saying that an annual operating record's review is done on the facility which is provided by electronic equipment on location or by third party contractors hired to do such specific testing and periodic inspections are provided by PSTIF or DNR staff.

Mr. Massey told the Commission that the development of an AGO, DNR and PSTIF database is being discussed that would help to track lapsed insurance policies of petroleum storage tanks. This

database would be the next step after FR of underground storage tanks is accomplished with the tanks that are presently out of compliance. Both Mr. Massey and the Commission agreed that it could take awhile to get all of the older tanks caught up with compliance, since some of them also have other violations, but that the process time for new tanks should be shortened.

UPDATE OF COMMISSION'S OFFER OF ASSISTANCE WITH HISTORIC NON-COMPLIERS

Kathy Flippin, Enforcement Section, expressed appreciation for the Commission's offer to be involved in the process of encouraging long-term non-compliers to comply. She explained that while the department was looking for ways to involve the Commission, it appears it would be difficult for the Commission to be involved in the process and still maintain its impartiality. She assured the Commission that the department would make every effort to maintain ongoing, open communication and to offer detailed assistance in any way possible to help non-compliers understand the process and the need to come into compliance. Ms. Flippin explained the process of notifications, the grace periods afforded non-compliers to respond to those notifications and the referral to the AGO through the Commission. She told the Commission that the department would make every effort to communicate early on in the process with non-compliers by telephone and would offer ample opportunity for them to have their questions answered. Ms. Flippin reminded the Commission of the possibility of a future bulk referral that Mr. Massey had mentioned earlier, explaining that there may be other future bulk referrals later on as well. She mentioned the planning stages of a website with information to be open to the public on the various types of violations seen. Ms. Flippin referred to the website as an Environmental Protection Agency/Enforcement alert of fast track sharing of information. She suggested that the Commission might also want to consider participating in using the website as a way to inform the public of violations. Ms. Flippin answered questions the Commissioners had regarding how much time it might possibly take to bring a facility into compliance and quoted a period of about four months.

Robert Geller, HWP, Interim Director, encouraged and welcomed the Commission's efforts to inform the public that if there are questions or issues they feel need to be addressed, the Commission is there to listen and assist. Mr. Geller told the Commission that the department would work with the Commission to assist them in this effort. The Commissioners decided that such communication would serve best if it came directly from the Chair rather than from individual Commissioners. Mr. Geller encouraged them to use the website that Kathy Flippin suggested as one means to communicate with stakeholders. The Commission was in favor of doing so.

WORLD CLASS AUTO BODY (WORLD CLASS), SEDALIA, MISSOURI-REFERRAL TO AGO

Mike Menneke, Enforcement, requested that World Class, Sedalia, Missouri, be referred by the Commission to the AGO to compel compliance, facilitate the shipment of the waste in question and pursue or negotiate a civil penalty. Mr. Menneke gave a brief history and answered questions the Commission had regarding World Class.

Motion to refer World Class Auto Body to AGO in order to compel compliance, facilitate the shipment of the waste in question and pursue or negotiate a civil penalty was made by Commissioner Huggins and seconded by Commissioner Saunders.

Motion carried.

GRAVOIS FASTOP (ST0011853) REFERRAL TO THE AGO

Mike Martin, Enforcement, requested that Gravois Fastop (ST0011853) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty. Mr. Martin gave a brief history and answered questions the Commission had regarding Gravois Fastop (ST0011853).

Motion to refer Gravois Fastop (ST0011853) to the AGO in order to compel compliance and pursue or negotiate a civil penalty was made by Commissioner Saunders and seconded by Commissioner Williamson.

Motion carried.

BUDDY'S INCORPORATED (ST0011244) REFERRAL TO THE AGO

Angela Oravetz, Enforcement, requested that Buddy's Incorporated (ST0011244) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty. Ms. Oravetz gave a brief history and answered questions the Commission had regarding Gravois Fastop (ST0011853). Ms. Oravetz explained that the one of the violations had to do with the facility failing to fill out and return a routine registration form that could be easily remedied. Commissioner Saunders expressed a concern for the Commission being perceived as cavalier and unconcerned regarding the struggle of small business. Commissioner Brown suggested that someone from the department visit the facility and help them go through the required paper work, suggesting the possibility of there being a lack of understanding as to how to fill out the paper work. Commissioner Warren pointed out that there was also a financial violation involved as well. A brief discussion followed.

Motion to refer Gravois Fastop (ST0011853) to the AGO in order to compel compliance and pursue or negotiate a civil penalty was made by Commissioner Kessler and seconded by Commissioner Williamson.

Motion carried.

B.M.T. CORPORATION (ST0005604) REFERRAL TO THE AGO

Angela Oravetz, Enforcement, requested that B.M.T. Corporation (ST0005604) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty. Ms. Oravetz gave a brief history and answered questions the Commission had regarding B.M.T. Corporation (ST0005604).

Joe Evola, B.M.T. Operations Manager, explained B.M.T.s FR history to the Commission, pointing out a problem they had had of not being insured due to insurance premiums not being paid because of a bookkeeper's embezzlement of funds. Mr. Evola told the Commission that B.M.T. has remained in compliance with everything except the FR and had been trying to get into the PSTIF since July 2002. Commissioner Brown expressed a concern that B.M.T. was being referred to the AGO when it appeared that the facility was trying to comply.

Chairman Gleason asked Carol Eighmey, PSTIF, Executive Director, for any comment she may have regarding B.M.T.'s efforts applying for the PSTIF since July 2002. Ms. Eighmey requested that the Commission postpone action on the B.M.T. AGO referral and offered to personally speak to Mr. Evola about B.M.T.'s PSTIF application. Chairman Gleason suggested a motion be made for the B.M.T. AGO to be tabled until the next Commission Meeting in June 2005.

Motion to table referral of the B.M.T. Corporation (ST0005604) to the AGO was made by Commissioner Kessler and seconded by Commissioner Saunders.

Commissioner Saunders suggested that when these facilities are being referred to the AGO that the Commission routinely be informed as to how long each individual facility has been waiting to get into the PSTIF.

Motion carried.

-There was a 5-minute break at this time-

PRICE MOTOR COMPANY (ST0005604) REFERRAL TO THE AGO

Angela Oravetz, Enforcement, requested that Price Motor Company (ST0005604) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty.

Ms. Oravetz gave a brief history and answered questions the Commission had regarding Price Motor Company (ST0005604).

Commissioner Kessler asked if Price Motor Company seemed to be trying to cooperate. Ms. Oravetz told the Commission that the Company is in the process of remedying the situation by now using an above ground storage tank for their generated used oil and are in the beginning stages of the closure process on the underground storage tank in question. She also said that the company only responds to her when she pursues the matter, rather than submitting documentation when first requested. Ms. Oravetz told the Commission that Price Motor Company was able to show documentation of statistical reconciliation on other tanks. Commissioner Kessler asked Ms. Oravetz if she would be willing to work with the company to resolve the matter and table the referral. Ms. Oravetz agreed to try to do so.

Motion to table referral of the Price Motor Company (ST0005604) to the AGO was made by Commissioner Kessler and seconded by Commissioner Warren.

Motion Carried.

Chairman Gleason requested the Price Motor Company (ST0005604) AGO referral be on the June 2005, HWMC meeting Agenda.

JIM'S AUTO SERVICE (ST0006010) REFERRAL TO THE AGO

Angela Oravetz, Enforcement, requested that Jim's Auto Service (ST0006010) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty.

Ms. Oravetz gave a brief history and answered questions the Commission had regarding Jim's Auto Service (ST0006010)

Carol Eighmey, PSTIF, Executive Director, told the Commission that Jim's Auto Service (ST0006010) had applied for the PSTIF on March 3, 2005. Commissioner Warren asked Ms. Eighmey how long it would take to make a decision based upon the March 3, 2005, application. Ms. Eighmey said that it would have been responded to within thirty days.

Note: Carol Eighmey later corrected this information of the March 3, 2005, PSTIF application date to say it referred to Patterson Oil Company's Spirit #6 (ST0009929) instead of Jim's Auto Service (ST0006010).

Motion to refer Jim's Auto Service (ST0006010) to the AGO in order to compel compliance and pursue or negotiate a civil penalty was made by Commissioner Kessler and seconded by Commissioner Williamson.

Motion carried.

PATTERSON OIL COMPANY'S SPIRIT #6 (ST0009929) REFERRAL TO THE AGO

Angela Oravetz, Enforcement, requested that Patterson Oil Company's Spirit #6 (ST0009929) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty. Ms. Oravetz gave a brief history and answered questions the Commission had regarding Patterson Oil Company's Spirit #6 (ST0009929).

Carol Eighmey, PSTIF, Executive Director, corrected her earlier statement, saying that Patterson Oil Company's Spirit #6 (ST0009929) submitted a PSTIF application March 3, 2005, instead of Jim's Auto Service (ST0006010).

Motion to table referral of the Patterson Oil Company's Spirit #6 (ST0009929) to the AGO until the HWMC June 2005 meeting was made by Commissioner Saunders and seconded by Commissioner Kessler.

Motion Carried.

Chairman Gleason requested the Patterson Oil Company's Spirit #6 (ST0009929) AGO referral be on the June 2005 HWMC meeting Agenda.

SELIGMAN'S SUPER STOP (ST00021253) REFERRAL TO AGO

Angela Oravetz, Enforcement, requested that Seligman's Super Stop (ST00021253) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty. Ms. Oravetz gave a brief history and answered questions the Commission had regarding Seligman's Super Stop (ST00021253)

Motion to refer Seligman's Super Stop (ST00021253) to the AGO in order to compel compliance and pursue or negotiate a civil penalty was made by Commissioner Warren and seconded by Commissioner Saunders.

Motion carried.

AUNT B'S NORTH (ST0008211) AND AUNT B'S PUMP AND WASH (ST0019856)

Angela Oravetz, Enforcement, requested that Aunt B's North (ST0008211) and Aunt B's Pump and Wash (ST0019856) be referred by the Commission to the AGO to compel compliance and pursue or negotiate a civil penalty. Ms. Oravetz gave a brief history and answered questions the Commission had regarding Aunt B's North (ST0008211) and Aunt B's Pump and Wash (ST0019856).

Chairman Gleason asked Carol Eighmey, PSTIF, Executive Director, procedure regarding a policy lapse. Ms. Eighmey told the Commission that PSTIF notifies the department when a policy lapses. She explained that written notices of the lapse in policy are given to the facility with time limits set to respond by.

Motion to refer Aunt B's North (ST0008211) to the AGO in order to compel compliance and pursue or negotiate a civil penalty was made by Commissioner Kessler and seconded by Commissioner Williamson.

Motion carried.

Motion to refer Aunt B's Pump and Wash (ST00019856) to the AGO in order to compel compliance and pursue or negotiate a civil penalty was made by Commissioner Huggins and seconded by Commissioner Saunders.

Motion carried.

PRIME TIME STORES, INCORPORATED REFERRALS TO AGO- 5 LOCATIONS

Angela Oravetz, Enforcement, requested that: Double Nickel #1001 (ST0007440), #1002 (ST0011400), #1003 (ST0011396), #1004 (ST0011403), and #1005 (ST0011398) be referred to the AGO in order to compel compliance and pursue or negotiate a civil penalty. Ms. Oravetz gave a brief history and answered questions the Commission had regarding these facilities.

Motion to refer Double Nickel #1001 (ST0007440), #1002 (ST0011400), #1003 (ST0011396), #1004 (ST0011403), and #1005 (ST0011398) to the AGO in order to compel compliance and pursue or negotiate a civil penalty was made by Commissioner Huggins and seconded by Commissioner Saunders.

Motion carried.

TANKS RISK-BASED CORRECTIVE ACTION RULE UPDATE

John Balkenbush, Tanks Section, presented a brief update on the Tanks Risk-Based Corrective Action Rule answering any questions the Commissioners had.

MISSOURI RISK-BASED CORRECTIVE ACTION (MRBCA)-POWERPOINT PRESENTATION

Linda Vogt, HWP Director's Office, presented a PowerPoint Presentation to update the Commission on the status and future of both the technical guidance and a proposed rule. Rob Murphy, Brownfields/Voluntary Cleanup Program, presented the Whitmire Micro-Gen Research Laboratories, Incorporation, as an example of a MRBCA Brownfields site cleanup. Ms. Vogt and Mr. Murphy answered questions regarding the MRBCA and the Whitmire facility. Ms. Vogt introduced Atul M. Salhotra, Ph. D., President, RAM Group Inc., as the assisting technical consultant to the MRBCA document. Handouts were made available to the Commissioners and to those present at the meeting.

MONTHLY REPORTS/LEGISLATIVE UPDATES

Robert Geller, HWP Interim Director, encouraged input from the Commissioners regarding the usefulness on the Monthly Reports and any change in format they would like to see made.

Commissioner Huggins pointed out the decline in the January 2005 Hazardous Waste Inspections on the report. Kathy Flippin, Enforcement Section Chief, responded saying that the decline was due to the loss of staff in the tanks section and regional offices. Commissioner Huggins also pointed out an increase in the January 2005 Inspection and Enforcement Underground Storage Tanks. Ms. Flippin said that the regions are using an automated checklist, which appears to be some compensation for loss of staff.

LEGISLATIVE UPDATES

Robert Geller, HWP Interim Director, briefed the Commission on the status of the Appeals and Request for Hearings Rule, (AHC Rule). Handouts were made available to the Commissioners. Mr. Geller said that the goal timeline was:

- a public hearing August 11, 2005,
- HWMC adoption of the rule October 13, 2005,
- and the effective date of December 30, 2005.

Commissioner Huggins gave a brief background and explanation of the Proposed Procedural Rule, which was drafted at the request of the Commissioner's Core Workgroup. Commissioner Huggins encouraged the HWMC to move forward in the direction of the rule along with the Air Conservation Commission, Clean Water Commission and the Land Reclamation Commission.

Mr. Geller gave a brief update on the RCRA Rulemaking. He explained that the department was requesting the adoption of federal rules and the scheduling of public hearings that would bring the department in line with those federal rules. He stressed the need to get departmental approval before moving forward with the adoption of any additional federal rules.

Mr. Geller presented the Commissioners with the January 23, 1996, Division of Environmental Quality Administrative Rulemaking Policy handout. Mr. Geller pointed out that though the policy is dated 1996 it has very effective guidelines as to how to involve and work with stakeholders as participants in the rulemaking process. Mr. Geller pointed out areas of possible revision involving meeting times and the usage of public website, availability of meeting information, such as agendas, minutes, etc. that could improve the policy.

PUBLIC INQUIRIES

Kevin Perry, REGFORM, expressed appreciation for the Commission's display of due consideration of the facilities being considered for referral to the AGO earlier in the meeting. Mr. Perry also wanted to acknowledge the importance of the adoption of the federal hazardous waste rules as a way to help those facilities wanting to comply to not have to deal with a double book system.

Commissioner Huggins stated that the ability of the Hazardous Waste Program to continue and meet its responsibilities in a timely fashion depends upon getting adequate hazardous waste fee bills and hoped that the REGFORM companies were offering the needed support to insure this adequate funding. Mr. Perry pointed out his own advocacy of setting priorities to get the job done, the reality that there will be cuts, the need to determine what is to be cut and that the companies he represents do want the program to continue.

OTHER BUSINESS

There was no other business at this time.

FUTURE MEETINGS

There were no changes regarding future meetings as scheduled.

RECOGNITION OF COMMISSIONER BEN KESSLER

Commissioner Warren acknowledged Commissioner Ben Kessler's 16 years of service (15 years as Chairman) on the HWMC. The Commission expressed an appreciation for the benefits of Commissioner Kessler's leadership to the state of Missouri.

ADJOURNMENT

Motion to adjourn was made by Commissioner Warren and seconded by Commissioner Kessler.

Motion carried and the meeting was adjourned.

Respectfully Submitted,

Robbin Stout
Commission Secretary

APPROVED

Patrick Gleason-Chairman
Date: _____